

**GODFREY & KAHN, S.C.**

200 South Washington Street, Suite 100  
Green Bay, WI 54301  
Green Bay 920.436.7693  
Timothy F. Nixon, Esq.

*Counsel to A.O. Smith Corporation*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,  
  
Debtors<sup>1</sup>.

Chapter 11

Case No. 18-23538 (RDD)

(Jointly Administered)

**A.O. SMITH CORPORATION'S JOINDER TO PRIORITY CLAIMANT  
CONSORTIUM JOINDER, OMNIBUS OBJECTION TO FEE APPLICATIONS FILED  
BY PROFESSIONALS AND REQUEST TO INCREASE HOLDBACK AMOUNT (Dkt.  
No. 5012) AND LIMITED OBJECTION OF MIEN CO. LTD., et al. TO FEE  
APPLICATIONS FILED BY PROFESSIONALS (Dkt. No. 4923)**

A.O. Smith Corporation ("AO Smith"), a creditor with a pending §503(b)(9) claim of \$608,749.87 filed March 29, 2019 as claim no. 12509, hereby files its joinder objection (the "Joinder") to the *Joinder, Omnibus Objection to Fee Applications Filed by Professionals and*

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtors' federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC (5554); Sears STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816).

*Request to Increase Holdback Amount* (the “Omnibus Joinder”) dated August 28, 2019 (Dkt. No. 5012) and to the *Limited Objection of Mien co. Ltd., et al. to Fee Applications Filed by Professionals* (the “Initial Objection”) dated August 20, 2019 (Dkt. No. 4923) to the various first and second interim fee applications pending before this Court<sup>2</sup> (collectively, the “Fee Applications”). In support of this Joinder, AO Smith respectfully represents as follows:

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<sup>2</sup> The first and second interim fee applications include the following: Second Interim Fee Application of Deloitte & Touche LLP for Services Rendered and Reimbursement of Expenses Incurred as Independent Auditor and Advisor from March 1, 2018 to June 30, 2019 (Dkt. No. 4826), Second Interim Fee Application of Deloitte Transactions and Business Analytics LLP for Compensation for Services Rendered and Reimbursement of Expenses Incurred as Bankruptcy Advisor from March 1, 2019, through June 30, 2019 (Dkt. No. 4827), Second Interim Fee Application of Alvarez & Marsal North America, LLC for Compensation Earned and Expenses Incurred for the Period from March 1, 2019 through and including June 30, 2019, Second Interim Fee Application of Paul, Weiss, Rifkind, Wharton & Garrison LLP, Attorneys for the Debtors and Debtors in Possession for the Period from March 1, 2019 Through and Including June 30, 2019 (Dkt. No. 4834), Second Interim Fee Application of Stout Risius Ross, LLC, Real Estate Consultant and Advisor for the Debtors, for the Period from March 1 2019 Through and Including June 30, 2019 (Dkt. No. 4835), Second Interim Fee Application of Evercore Group L.L.C. for Compensation for Services Rendered and Reimbursement of Expenses Incurred as Investment Banker to the Debtors for the Period from March 15, 2019 Through and Including July 14, 2019 (Dkt. No. 4837); Second Application for Interim Professional Compensation of Prime Clerk LLC, as Administrative Agent of the Debtors, for Services Rendered and Reimbursement of Expenses for the Period from March 1, 2019 through June 30, 2019 (Dkt. No. 4840), Second Interim Application of FTI Consulting, Inc., Financial Advisor to the Official Committee of Unsecured Creditors of Sears Holdings Corporation, et al., for Interim Allowance of Compensation and Reimbursement of Expenses for the Period from March 1, 2019 Through June 30, 2019 (Dkt. No. 4841), Second Interim Application of Houlihan Lokey Capital, Inc., Investment Banker to the Official Committee of Unsecured Creditors, for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from March 1, 2019 Through June 30, 2019 (Dkt. No. 4842), First Joint Application of Paul E. Harner, as Fee Examiner and Ballard Spahr LLP, as Counsel to the Fee Examiner for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from April 22, 2019 Through June 30, 2019 for Fee Examiner, Other Professionals (Dkt. No. 4844), Second Application for Interim Professional Compensation of Akin Gump Strauss Hauer & Feld LLP as Counsel to the Official Committee of Unsecured Creditors for Allowance of Compensation for Services Rendered and Reimbursement of Expenses for the Period of March 1, 2019 Through and Including June 30, 2019 (Dkt. No. 4846), Second Interim Fee Application of Deloitte Tax LLP for Compensation for Services Rendered and Reimbursement of Expenses Incurred as Tax Services Provider from March 1, 2019 through June 30, 2019 (Dkt. No. 4848) Second Application of Weil, Gotshal & Manges LLP, as Attorneys for the Debtors, for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary expenses, Incurred from March 1, 2019 Through and Including June 30, 2019 (Dkt. No. 4860), Second Application for Interim Professional Compensation for Young Conaway Stargatt & Taylor LLP (Dkt. No. 4862), First Interim Application for Compensation and Reimbursement of Expenses of Elise S. Frejka, Consumer Privacy Ombudsman, for the Period December 3, 2018 Through July 31, 2019 (Dkt. No. 4910).

## **BACKGROUND**

1. The Debtors commenced voluntary cases under chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) beginning on October 15, 2018, in the United States Bankruptcy Court for the Southern District of New York (the “Court”).<sup>3</sup>

2. On November 1, 2018, the Debtors filed the *Motion of Debtors for Authority to Establish Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* (Dkt. No. 425).

3. On November 16, 2018, the Court entered an *Order Authorizing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* (the “Interim Fee Compensation Order”) (Dkt. No. 796).

4. The Interim Fee Compensation Order provides that professionals must file monthly fee statements (the “Monthly Statement”) with the Court. *See* Interim Fee Compensation Order ¶2.A(i)-(ii). Parties then have 15 days after the receipt of the Monthly Statement to review the Monthly Statement and file an objection. *See id.* at ¶2.A(v). After the time to object has passed, if no objections were filed, the Debtors shall pay 80% of the fees and 100% of the expenses identified in the Monthly Statement. *See id.* at ¶2.A(vi).

5. The Monthly Statements do not replace the need to file interim or final fee applications.

6. The Court requires professionals to file interim fee applications every four months. *See id.* at ¶2.B.

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<sup>3</sup> On October 16, 2018, the Court entered an order administratively consolidating the Debtors’ bankruptcy cases for procedural purposes only, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) (Dkt. No. 118).

7. Notwithstanding the Debtors' ability to make payments to professionals based on the Monthly Statements and interim fee applications, the professionals' fees are still subject to final approval of fees and expenses by the Court. *See id.* at ¶¶2.A(ii), 2.B(v).

### **JOINDER**

8. AO Smith joins in the Initial Objection and the Omnibus Joinder for the reasons set forth therein, and requests the relief sought in the Initial Objection and Omnibus Joinder, namely, that the Court should enter an order denying the Fee Applications to the extent that the professionals request immediate payment of their fees at this time. AO Smith also joins in the alternative Priority Claimant Consortium request that the Court increase the minimal 20% holdback that now exists in the Interim Fee Compensation Order to a significantly higher percentage that takes into account the current posture of these cases.

9. AO Smith joins the Omnibus Joinder further objections expressed in ¶¶13-23.

10. AO Smith joins the Omnibus Joinder request for an increased holdback expressed in ¶¶24-26.

11. AO Smith joins in the Omnibus Joinder request for mediation expressed in ¶¶27-33.

### **RESERVATION OF RIGHTS**

12. AO Smith reserves their rights to amend and/or supplement this joinder, as well as their rights to object to final fee applications and to assert any other rights under applicable law.

**CONCLUSION**

WHEREFORE, the AO Smith requests that the Court (i) deny the Interim Fee Applications to the extent that the professionals request immediate payment of their fees; (ii) “pause” the professionals’ monthly compensation and reimbursement procedures pursuant to the Interim Fee Procedures Order and/or significantly increase the amount of the Holdback; (iii) order mediation; and/or (iv) grant any further relief that the Court deems just and appropriate.

Dated: August 30, 2019

**GODFREY & KAHN, S.C.**

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Timothy F. Nixon (NYB #4436390)  
200 South Washington Street, Suite 100  
Green Bay, WI 54301  
Green Bay 920.436.7693  
FAX • 414.273.5198  
EMAIL • [tnixon@gklaw.com](mailto:tnixon@gklaw.com)

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